



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,825	04/25/2001	Tetsuya Hirakawa	Q64165	6097

7590 01/25/2007
SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

EXAMINER

ALLEN, WILLIAM J

ART UNIT	PAPER NUMBER
----------	--------------

3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/840,825	Applicant(s) HIRAKAWA, TETSUYA	
	Examiner William J. Allen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

Claims 1-15 are pending and rejected as set forth below.

Response to Arguments

Applicant's arguments filed 11/01/2006 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment has necessitated the new grounds of rejection.

Additionally, Applicants amendment to claim 7 and the subsequent dependents of claim 7 is sufficient to overcome the rejection under 35 U.S.C. 101.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigus et al. (US 6401080).**

Regarding claim 1 (and related claims 5 and 7), Bigus teaches:

a user terminal connected to the Internet (see at least: Fig. 1-3, col. 5 lines 44-47);

a supplier terminal that:

randomly selects a purchase price of the product from a plurality of prices within

a predetermined price range (see at least: col. 11 line 61-col. 12 line 57, claims 6, 51, and 52); and

presents the selected price on the user terminal together with a predetermined term of validity, the predetermined term of validity being the time period during which the product is available for purchase, by the user, at the randomly selected price (see at least: col. 8 lines 59-65, Fig. 5).

Bigus teaches all of the above and further teaches the use of an intelligent agent service to facilitate negotiations and prevent parties from gaining an advantage by randomizing

Art Unit: 3625

negotiations (see at least: abstract, Fig. 2). Bigus, however, does not expressly teach wherein the supplier terminal *charges a commission fee* prior to the random selection of a purchase price.

In the same field of endeavor, Yuan teaches a system and method for electronic sales over the web in an auction format that helps to prevent fraud by the buyer or seller (see at least: Fig. 3, 0004-0005). Yuan further teaches charging a commission by the system, where the commission is charged up front to the user (see at least: 0070). Additionally, the Examiner notes that the commission is paid up front in order to prevent the seller from circumventing the auction process after receiving the benefit of obtaining buyer information (see at least: 0070). Similarly, one of ordinary skill in the art would recognize that, in an analogous fashion, payment of upfront commissions would prevent the buyer from circumventing the product locating and purchasing process after having received the benefit of obtaining a seller and product information, thereby ensuring that all fees are paid to the system facilitating the location and sale of the desired product.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Bigus to have included charging a *commission fee* to the user *up front* as taught by Yuan in order to provide a system that prevents a buyer from circumventing the product locating and purchasing process after having received the benefit of obtaining a seller and product information, thereby ensuring that all fees are paid to the system facilitating the location and sale of the desired product (see at least: Yuan, 0070).

3. **Claims 2-3, 6, 8, 10-11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigus in view of Yuan, as applied to claims 1, 5, and 7, in further view of PTO 892u.**

Regarding claim 2 (and related claims 6 and 8), Bigus in view of Yuan teaches all of the above and further teaches the use of an intelligent agent service to facilitate negotiations for purchasing (see at least: Bigus, abstract, Fig. 2) and payment of an commission upfront to prevent circumvention of the buying and selling process (see at least: Yuan, 0070). Bigus additionally teaches using an actual value (i.e. standard value) of a purchasable product (see at least: col. 10 lines 18-25). Bigus in view of Yuan, however, does not expressly teach where the *commission fee is determined by multiplying a predetermined rate to the standard price*. 892u teaches *charging a commission fee* by multiplying the 2.5% by the base (i.e. *standard*) price (see at least: Pages 1 and 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Bigus in view of Yuan to have included where a *commission fee is determined by multiplying a predetermined rate to the standard* as taught by 892u in order to provide the agent or agent provider with a monetary incentive (i.e. commission = profit for the agent) for completing negotiations with a potential purchaser (see at least: 892u, Page 3).

Regarding claim 3, Bigus in view of Yuan in further view of 892u further teaches *an audit authority terminal for supervising the setting of the prices by ht supplier terminal* (see at least: Bigus, col. 23 line 62-col. 24 line 18, Fig. 5-9, claim 4).

Regarding claim 10, Bigus in view of Yuan in further view of 892u teaches *wherein the commission is non-refundable* (see at least: 892u, Pages 1 and 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Bigus in view of Yuan to have included charging a *commission fee wherein the commission is non-refundable* as taught by 892u in order to provide the agent or agent provider with a monetary incentive (commission = profit for the agent) for completing negotiations with a potential purchaser (see at least: 892u, Page 3).

Regarding claim 11 (and related claims 14 and 15), Bigus in view of Yuan in further view of 892u teaches *wherein the term of validity contains an expiration date, such that the user cannot purchase the product after the expiration date* (see at least: Bigus, col. 8 lines 59-65, Fig. 5). The Examiner notes that a timer having an expiration time is analogous to an expiration date.

4. Claims 4, 9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigus in view of Yuan in further view of 892u, as applied to claims 2-3, 6, 10-11, and 14-15, and in further view of Harrington et al. (US 6161099).

Regarding claim 4, Bigus in view of Yuan in further view of 892u teaches all of the above as noted but does not expressly teach *a reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person*.

Harrington teaches *reselling function for reselling the privilege to purchase the product at the*

Art Unit: 3625

price presented by the supplier terminal to a third person (see at least: col. 2 lines 49-60, col. 6 lines 10-26). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Bigus in view of Yuan in further view of 892u to have included *reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person* as taught by Harrington in order to provide a system that allows for the greatest amount of funds to be raised for the selling entity (see at least: col. 6 lines 10-26).

Regarding claims 9, 12, and 13, Bigus in view of Yuan in further view of 892u teaches all of the above as noted and further teaches documentation of transaction history(see at least: Bigus, Fig. 12). Bigus in view of Yuan in further view of 892u, however, does not expressly teach *wherein a price history of the product is presented on the user terminal* together with the selected price of the product. Harrington teaches *wherein a price history of the product is presented on the user terminal* together with the selected price of the product (see at least: col. 7 lines 34-53). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Bigus in view of Yuan in further view of 892u to have included *reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person* as taught by Harrington in order to provide a system that allows for the greatest amount of funds to be raised for the selling entity (see at least: col. 6 lines 10-26).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
January 17, 2006



JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600